

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

ELEANOR BELL ET AL. v. ROGER TODD

Circuit Court for Cannon County
No. 189

No. M2003-00192-COA-R3-CV - Filed September 26, 2005

WILLIAM C. KOCH, JR., P.J., M.S., delivered the opinion of the court, in which WILLIAM B. CAIN and PATRICIA J. COTTRELL, JJ., joined.

OPINION DENYING PETITION FOR REHEARING

On September 14, 2005, we issued an opinion in this case vacating the trial court's judgment awarding compensatory and punitive damages to the Bell family. On September 21, 2005, the Bell family filed a petition for rehearing and a motion to consider post-judgment facts premised upon the February 2, 2005 convictions of Roger Todd for first degree murder, especially aggravated robbery, and especially aggravated kidnapping. The petition does not explain the reason for the delay in informing this court of these convictions.

The Bell family now insists that Mr. Todd's appeal is moot because he has been convicted of the murder of Jeffrey Bell. A case is moot when it no longer serves as a means to provide some sort of judicial relief to the prevailing party. *Knott v. Stewart County*, 185 Tenn. 623, 626, 207 S.W.2d 337, 338-39 (1948); *Ford Consumer Fin. Co. v. Clay*, 984 S.W.2d 615, 616 (Tenn. Ct. App. 1998); *Massengill v. Massengill*, 36 Tenn. App. 385, 388-89, 255 S.W.2d 1018, 1019 (1952).

This case does not present a situation in which the courts cannot provide relief to Mr. Todd. His subsequent convictions do not attenuate the trial court's error of proceeding, contrary to well-established law, to try the merits of the Bell family's claim without first disposing of Mr. Todd's pending motions. Mr. Todd, whether convicted or not, was entitled to have his motions considered and disposed of before the trial court rendered a judgment against him. He is still entitled to have his motions considered and disposed of even though the outcome of this civil proceeding may now be foreordained.

For these reasons, we grant the motion to consider post-judgment facts and respectfully deny the petition for rehearing and the motion to dismiss. Costs associated with this petition for rehearing are taxed to Eleanor Bell, Rena Bell, Clay Bell, and Ricky Bell.

WILLIAM C. KOCH, JR., P.J., M.S.